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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,617	12/16/2003	Tim Gorski	87345.2040	2667
7590	09/13/2005		EXAMINER	
BAKER & HOSTETLER LLP Suite 1100 Washington Square 1050 Connecticut Avenue, N.W. Washington, DC 20036			MC CALL, ERIC SCOTT	
			ART UNIT	PAPER NUMBER
			2855	
DATE MAILED: 09/13/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/735,617	GORSKI ET AL.
	Examiner	Art Unit
	Eric S. McCall	2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 July 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,6,7,9,11,13,21-31 and 34-36 is/are rejected.
- 7) Claim(s) 4,5,8,10,12,14-20,32,33 and 37 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 December 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

**METHOD AND APPARATUS FOR TESTING FLUID
FLOW AND FLUSHING A TRANSMISSION COOLER**

FINAL OFFICE ACTION

In response to the Applicant's amendment dated July 05, 2005.

CLAIMS

35 U.S.C. § 112

In response to the Applicant's amendments, the rejection of claims 1-20, 22, and 24-26 under 35 U.S.C. 112, second paragraph, as set forth in the previous office action (March 08, 2005), has been overcome

35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 7, 9, 13, 21-31, and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Viken (Re. 36,650).

With regards to claim 1, Viken suggests an apparatus for testing fluid flow and flushing a transmission cooler as claimed, comprising:

a user interface panel (P);
a fluid supply line (H) and a fluid return line (D6/D7);
a pressure switch, a manual shut off valve, a filtering system (ie. transmission filter), and a flow switch coupled to the return line (fig. 2);
a reservoir tank (the area of the transmission which contains the transmission fluid and is partially defined by the transmission pan of the transmission, T) for containing automatic transmission fluid and is in fluid communication with the fluid return line;
a heating element located within the reservoir tank (the components of the transmission in contact with the transmission fluid that is contained by the transmission fluid pan are interpreted as a heating elements because the operation thereof heats the transmission fluid);

a fluid fill port (F) connected to the reservoir tank;
an air operated fluid pump (70) coupled to the reservoir tank; and
an air injection system (A1) coupled to the fluid pump and the supply line.

Dependent claims 2, 3, 6, 7, 9, and 13 are rejected for the same reasoning as presented in the previous office action.

With regards to claim 21, Viken suggests a method of testing fluid flow and/or flushing a transmission cooler comprising:

providing a supply of automatic transmission fluid to cycle through the transmission cooler;

heating the supply of automatic transmission fluid with a heating element contained in a reservoir (the components of the transmission in contact with the transmission fluid that is contained by the transmission fluid pan, ie. reservoir, are interpreted as a heating elements because the operation thereof heats the transmission fluid);

supplying the automatic transmission fluid through a fluid supply line (H) connected to a line of the transmission cooler;

re-circulating the automatic transmission fluid from a line of the transmission cooler into a connected fluid return line (D6/D7);

filtering the re-circulated automatic transmission fluid (via the transmission filter); and returning the filtered automatic transmission fluid back into the supply (H) of automatic transmission fluid.

Claims 22-26 are rejected for the same reasoning as presented in the previous office action.

With regards to claim 27, Viken teaches a system for testing fluid flow and/or flushing a transmission cooler comprising:

means for supplying automatic transmission fluid (H, Fig. 1) to cycle through the transmission cooler (C);

means for heating located within the supply means of automatic transmission fluid (via the operation of the transmission);

means for progressing the automatic transmission fluid through a fluid supply line connected to an out line of the transmission cooler (Fig. 1);

means for re-circulating the automatic transmission fluid from an in line of the transmission cooler into a connected fluid return line (Fig. 1);

means for filtering the re-circulated automatic transmission fluid (via the transmission filter); and

means for returning the filtered automatic transmission fluid back into the means for supplying automatic transmission fluid (constant circulation of transmission fluid).

Claims 28-31, 34, and 35 are rejected for the same reasoning as presented in the previous office action.

With regards to newly added claim 36, the air injection system (A1) of Viken will inherently cause a turbulence in the automatic transmission fluid as claimed.

35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Viken (Re. 36,650).

Viken fails to teach a temperature sensor for detecting the temperature of the automatic transmission fluid.

However, the use of automatic transmission fluid temperature sensors are very well known and commonly used in the art.

As such, it would have been obvious to one having ordinary skill in the art to modify the teaching of Viken by including a temperature sensor that detects the temperature of the automatic transmission fluid.

The motivation being that the use of an automatic transmission fluid temperature sensor allows for the constant monitoring of the transmission fluid temperature in order to ensure the proper operation thereof and to help prevent any costly repairs.

Allowable Subject Matter

Claims 4, 5, 8, 10, 12, 14-20, 32, 33, and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

RESPONSE TO ARGUMENTS

The Applicant's arguments have been considered but have not been found to be persuasive.

Specifically, the Applicant has argued that the applied prior art of Viken does not disclose a heating element contained within a reservoir tank as claimed. The Examiner disagrees. Giving the claims their broadest, yet reasonable interpretation, the reservoir tank, as claimed, has been interpreted as being the area within a transmission which holds the transmission fluid. This

area is defined by the attachment of the transmission fluid plan to the transmission. Within this area are operating transmission parts which create significant amounts of heat during operation. The transmission fluid is used to keep the operating temperature within a given range. Nonetheless, the heat of these transmission parts heat the fluid, and thus the prior art suggests a "heating element" located within the reservoir tank as claimed.

Next, the Applicant argues that the reservoir of the teaching of Viken is that of reservoir 11 and that reservoir 11 does not contain a heating element. The Examiner disagrees. Reservoir 11 is just one reservoir of the entire system but not the only reservoir. Reservoir 11 contains fresh transmission fluid. The reservoir of the transmission contains the used transmission fluid which is to be replaced. The reservoir of the transmission is that which is relied upon by the Examiner.

Next, the Applicant argues that the transmission is not part of the flushing system of the prior art. The Examiner disagrees (see Fig. 1). Without the transmission, no flushing would take place. The transmission is essential to the flushing system.

Finally, the Applicant has argued that their flushing apparatus does not claim the transmission as a component. The Examiner however points that the Applicant's claims, as worded, does not exclude the transmission from the apparatus.

CONCLUSION

The Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric S. McCall
Primary Examiner
Art Unit 2855
Sep. 08, 2005